

Supreme Court of California Practices Procedures 1997 Revision

Addendum #1

Oral Argument

Effective April 29, 1997, the California Supreme Court amended its “Internal Operating Practices and Procedures” (IOPPs), published at pages 24-35 of the “Practices and Procedures” booklet, by adding the following third paragraph to IOPP section V:

Unless otherwise ordered, only one counsel may be heard for each side. Counsel wishing to divide the time for oral argument must request permission from the Court not later than ten days after the case has been set for oral argument. In no event shall oral argument be divided into segments of less than ten minutes, except that one counsel for the opening side (unless additional counsel are so authorized) may reserve a portion of his or her allotted time for rebuttal.

Addendum #2

State of California Judicial Branch Web Site Address

The Web site address in the “Practices and Procedures” booklet is incorrect. The correct address is <http://www.courtinfo.ca.gov> .

Addendum #3

Stays Relating to Bankruptcy Proceedings

Effective December 17, 1997, the California Supreme Court added the following section “I” to IOPP section XIV (additions are underscored):

XIV. APPLICATIONS FOR RECOMMENDATIONS FOR EXECUTIVE CLEMENCY, HABEAS CORPUS, AND STAYS

[. . .]

I. Upon receipt of a proper notice of bankruptcy relating to a pending petition for review in a creditor’s action or an action that would diminish the relevant estate, the court will file an order noting the stay of proceedings and suspending the operation of the applicable rule 28 time period. (See 11 U.S.C. § 362(a)(1).) Thereafter, the parties will be directed to file quarterly status reports to apprise the court of the current status of the bankruptcy proceedings. Upon receipt of a proper notice terminating the bankruptcy stay, the court shall enter an order terminating the stay of proceedings and indicating that the applicable time period of rule 28, subdivision (a), shall begin running anew from the date of the order.

Addendum #4

Appointment of Attorneys in Criminal Cases

Effective January 1, 1998, the California Supreme Court amended IOPP section XV to read as follows (additions are underscored and deletions are shown in strikethrough type):

XV. APPOINTMENT OF ATTORNEYS IN CRIMINAL CASES

A. In criminal matters, upon a verified or certified statement of indigency, the court, acting through the Clerk's Office, will appoint an attorney for a party in the following instances:

1. In a pending case in which the petition for review has been granted;
2. In a pending automatic appeal and/or related state habeas corpus/executive clemency proceedings;
3. In an original proceeding in which an alternative writ or an order to show cause has been issued;
4. In capital cases in the following proceedings—~~undertaken after the termination of the party's state appeal~~:
 - ~~(a) Proceedings in this court for post conviction review;~~
 - ~~(a) (b)~~—Proceedings for appellate or other post-conviction review of state court judgments in the United States Supreme Court, subject however to the power of that court to appoint counsel therein; and
 - ~~(b) (c)~~—~~Applications for executive clemency, and the~~ Conduct of sanity hearings when indicated.

B. At or after the time the court appoints appellate counsel to represent an indigent appellant on direct appeal, the court also shall offer to appoint habeas corpus/executive clemency counsel for each indigent capital appellant. Following that offer, the court shall appoint habeas corpus/executive clemency counsel unless the court finds, after a hearing if necessary (held before a referee appointed by the court), that the appellant rejected the offer with full understanding of the legal consequences of the decision.

C~~B~~. The court's Automatic Appeals Monitor is responsible for recruiting, evaluating, and recommending the appointment of counsel on behalf of indigent appellants in capital appeals and/or related state habeas corpus/ executive clemency proceedings.

D~~C~~. Counsel in automatic appeals and/or related state habeas corpus/executive clemency proceedings are compensated by one of two alternative methods: Under the "time and costs" method, counsel are compensated on an hourly basis and reimbursed for necessary expenses that were reasonably incurred. The court makes partial payments on counsel's fee claims while these claims are pending full review. Under the alternative optional "fixed fee and expenses" system, counsel are paid a fixed amount at regular stages of a case, according to a predetermined assessment of its difficulty.

E~~D~~. Habeas corpus petitions in capital cases are governed by the timeliness and compensation standards set out in the "Supreme Court Policies Regarding Cases Arising From Judgments of Death." Habeas corpus ~~c~~Counsel appointed in capital cases have the duty to investigate factual and legal grounds for the filing of a petition for a writ of habeas corpus, as delineated in those policies.

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